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OF GUAM

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IN THE SUPERIOR COURT OF GUAM

PERMARCH GUAM, INC., Petitioner, vs. MARIE LIZAMA, IN HER OFFICIAL CAPACITY AS THE TAX COMMISSIONER OF THE GUAM DEPARTMENT OF REVENUE AND TAXATION, Respondent.	**Special Proceedings Case No. SP0031-26** **DECISION AND ORDER GRANTING MOTION TO INTERVENE**

Proposed Intervenor John Ryan moves to intervene in this special proceeding brought by Petitioner Permarch Guam, Inc. as against Respondent Maria Lizama, in her official capacity as the Tax Commissioner of the Guam Department of Revenue and Taxation. Having considered the Motion and related filings, the Court finds that Ryan satisfies the requirements for intervention under Guam Rule of Civil Procedure 24. The Motion is therefore GRANTED.

I. PROCEDURAL HISTORY

Permarch filed this proceeding under 11 GCA §§ 26107 and 26108 to challenge the DRT's assessment of alcohol taxes and penalties. First Am. Compl. (Feb. 23, 2026). DRT issued the assessment against Permarch on or about August 4, 2022.[1] *Id.* at ¶ 15. Permarch later requested an informal hearing; DRT held a second informal hearing on August 26, 2025, and

[1] There may be a discrepancy as to the date of the assessment. A Notice of Assessment from DRT to Permarch is found in CV1279-19 and is dated July 26, 2022. Decl. Marie Lizama Supp. Opp'n Mot. Summ. J., Ex. A (CV1279-19 (Aug. 9, 2024)).

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confirmed its position on January 21, 2026. *Id.* at ¶ 16. In its Complaint, Permarch alleged DRT's tax assessment was erroneous and based on speculative amounts that assumed Permarch collected from its customers. *Id.*

Ryan previously filed *Territory of Guam ex rel. John Ryan v. Permarch Guam, Inc.*, CV1279-19 ("Whistleblower Case"). That action alleges that Permarch collected alcohol taxes and failed to remit them to the Government of Guam. *Id.* The Government declined to intervene and authorized Ryan to proceed as relator. *Id.* (Gov't Guam's Declination to Intervene (Jan. 6, 2020)).

The assessment in this case concerns the same alleged tax nonpayment. The record also reflects that Permarch remitted $150,000 to DRT in connection with its alcohol license renewal. First Am. Compl.; Answer (Apr. 24, 2026). In the related case, DRT acknowledged that the $150,000 payment constituted proceeds obtained based on Ryan's information and agreed to pay Ryan 30 percent, or $45,000. Errata Stip. for Order on Award (CV1279-19 (May 14, 2026)).

Ryan now moves to intervene in this case. Mot. Intervene (May 11, 2026). Permarch and DRT both oppose the Motion. Pet'r's Opp'n Mot. Intervene (June 8, 2026); DRT's Joinder Pet'r's Opp'n Mot. Intervene (June 9, 2026). Permarch argues that Ryan lacks a protectable interest and that any interest is contingent on future collection and unrelated to the assessment appeal. Pet'r's Opp'n Mot. Intervene. Permarch also contends that DRT adequately represents Ryan's interests and that Title 11, Chapter 26 of the Guam Code Annotated does not authorize his participation. *Id.* In addition, Permarch argues that confidentiality concerns weigh against intervention, and that Ryan initially failed to comply with Guam Rule of Civil Procedure 24(c). *Id.*

DRT joins in the Opposition and separately argues that Ryan has no right or standing to intervene. DRT's Joinder Pet'r's Opp'n Mot. Intervene. DRT also cites the Ninth Circuit's decision in the related matter that notes only a protected interest in proceeds actually recovered. *Id.* Finally, DRT argues that intervention would prejudice DRT and Permarch by injecting collateral whistleblower issues into the tax appeal. *Id.*

II. DISCUSSION OF LAW

Rule 24(a) permits intervention as of right when the applicant claims an interest relating to the property or transaction at issue, the action may impair or impede the applicant's ability to protect that interest, and existing parties do not adequately represent it. The Guam Supreme Court articulated four elements to satisfy Rule 24(a):

> (1) the motion to intervene must be timely;
> (2) the applicant must have a "significantly protectable interest" relating to the property or transaction that is the subject of the suit;
> (3) the applicant must be so situated that disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect that interest; and
> (4) the applicant's interest must be inadequately represented by the existing parties.

Limtiaco v. Camacho, 2009 Guam 7 ¶ 10; *Hi Life Tours, LLC v. Dep't of Parks & Rec.*, 2021 Guam 21 ¶ 19. Courts construe these factors broadly in favor of intervention. *Limtiaco*, 2009 Guam 7 ¶ 10.

Section 37203 of Title 5 of the Guam Code Annotated governs a relator's rights after the Government declines to proceed. It provides that the person who initiated the action may conduct it and, subject to the statute, retains the rights provided by the Whistleblower Act. 5 GCA § 37203(c). Section 37203(e) further provides that the Government may pursue an alternate remedy, including "any administrative proceeding to determine a civil money penalty." If it does so, the relator "shall have the same rights in such proceeding" that the relator would have had if the action had continued under the Whistleblower Act. 5 GCA § 37203(e). Final findings in the alternate proceeding become conclusive in the Whistleblower case. *Id.*

A. Ryan Satisfies the Four *Limtiaco* Factors

First, the Motion is timely, and Permarch stipulated as much. Pet'r's Opp'n Mot. Intervene at 9. Ryan received notice of this proceeding on February 19, 2026, and moved to intervene before the case materially progressed. The record does not show that intervention will require the parties to redo completed work or alter a developed trial schedule.

Second, Ryan has a significantly protectable interest related to this litigation. Section 37203(c) preserves the relator's statutory role after the Government declines to proceed, and section 37203(e) extends that role to an alternate remedy. Here, the litigation appears to be the type of alternate remedy contemplated by section 37203(e). Although Permarch initiated the section 26105 hearing and filed this action, the record reflects that DRT assessed the same alleged tax liability underlying the Whistleblower Case, conducted the hearing, issued a written decision, and now asks this Court to uphold the assessment. First Am. Compl. ¶¶ 39–44. Those circumstances support treating the assessment process as an alternate means through which the Government pursued the underlying claim under section 37203(e). Ryan accordingly alleges that his statutory interest in proceeds recovered because of his information in the Whistleblower Case relates directly to the assessment.

Permarch jumps from one dictionary definition to the next to argue that a tax assessment is not an administrative proceeding. Even assuming the assessment itself is not, however, the process surrounding it had the essential features of an administrative proceeding: Permarch received a hearing, DRT issued a decision, DRT later sent a letter reflecting additional amounts, and Permarch then stated that it had "exhausted its administrative remedies." First Am. Compl.

¶¶ 15–18. In any event, the Court need not decide whether the assessment process qualifies as an administrative proceeding. Section 37203(e) authorizes the Government to pursue its claim through "any alternate remedy available … *including* any administrative proceeding." 5 GCA § 37203(e) (emphasis added). The word "including" indicates that administrative proceedings are one example of an alternate remedy, not the exclusive form an alternate remedy may take.

Nor is Ryan's interest purely contingent or speculative, as both Permarch and DRT suggest. Pet'r's Opp'n Mot. Intervene at 12–15; DRT's Joinder Pet'r's Opp'n at 6. DRT collected $150,000 from Permarch, acknowledged that the payment was obtained based on Ryan's information, and agreed to pay him $45,000. The stipulation also preserved Ryan's rights concerning additional amounts owed. Although the Court need not determine the ultimate amount of any recovery at this stage, these facts are sufficient to establish that Ryan claims a legally protected interest related to the assessment.

Third, disposition may impair or impede Ryan's ability to protect that interest. Section 37203(e) makes final findings in the alternate proceeding conclusive on the parties to the Whistleblower Case. If this proceeding constitutes the alternate remedy contemplated by section 37203(e), final findings concerning Permarch's tax liability, claimed exemption, or alleged reliance on DRT communications could become conclusive in the Whistleblower Case. Excluding Ryan could therefore impair his ability to protect his interests by binding him to findings entered without his participation.

Fourth, DRT does not adequately represent Ryan's interests. DRT seeks to uphold its assessment and protect the public treasury. Ryan shares that position, but his interests also include his statutory share of proceeds and his separate rights to expenses, attorneys' fees, and costs. DRT's institutional interests do not necessarily include protecting those entitlements. The common position of Ryan and DRT on the assessment does not establish adequate representation. Their interests may diverge regarding collection, compromise, attribution of proceeds, and the effect of factual findings on the Whistleblower Case. DRT's initial pursuit of the assessment without notifying Ryan further supports this conclusion.

B. Chapter 26 and *Mansapit-Shimizu* Do Not Foreclose Intervention

Permarch argues that Chapter 26 creates a closed dispute between the taxpayer and the Tax Commissioner. The Court disagrees. Section 26108 identifies the parties to a taxpayer's refund action, but it does not displace Guam Rule of Civil Procedure 24 or the specific rights granted by section 37203(e). Section 26109 limits Chapter 26 remedies to claims arising from taxes governed by that chapter; it does not limit intervention when another statute grants a relator rights in an alternate remedy involving the same underlying claim.

DRT's reliance on *Ryan v. Mansapit-Shimizu* is similarly misplaced. That decision addressed due process—specifically, whether (1) Ryan had a constitutionally protected property interest in the qui tam action; and (2) in proceeds recovered through it. *Ryan v. Mansapit-Shimizu*, No. 24-4522, 2025 WL 1752135, at *1 (9th Cir. June 25, 2025). The Ninth Circuit did not decide whether Ryan could intervene in a tax proceeding or whether this proceeding constitutes an alternate remedy under section 37203(e). Nor did it hold that Ryan's role ended when he alerted DRT.

In addressing the first question, the Ninth Circuit noted that the United States Supreme Court has recognized that the federal False Claims Act "gives the relator himself an interest in the lawsuit, and not merely the right to retain a fee out of the recovery." *Id.* (quoting *Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 772 (2000)). The Ninth Circuit nevertheless concluded that, at the time of the alleged conduct, no clearly established constitutional property interest existed in a qui tam action under Guam law. *Id.* at *2.

The Ninth Circuit separately found, for purposes of Ryan's federal due-process claim, that he had a clearly established and protected property interest in proceeds recovered through the action. *Id.* at *2. In reaching that conclusion, the court quoted section 37203(e), which provides that when the Government pursues an alternate remedy, "the relator shall have the same rights in such proceeding as he would have had if the qui tam action had continued." *Id.* at *2. The court also recognized that § 37203(e) expressly reserves the Government's authority to pursue an alternate remedy. *Id.* at *1. DRT reads this language to mean that Ryan's rights are "strictly limited to notice if a settlement is reached and/or monies collected." DRT's Joinder Pet'r's Opp'n Mot. Intervene at 3. But that goes beyond the Ninth Circuit's holding. *Mansapit-Shimizu* did not decide whether Ryan may intervene in this proceeding, and it does not foreclose intervention. It confirms that Ryan's interest in recovered proceeds was constitutionally protected and that, at a minimum, he was entitled to notice of settlement affecting those proceeds. *Mansapit-Shimizu*, 2025 WL 1752135 at *2.

C. Procedural, Prejudice, and Confidentiality Objections

Permarch next argues that Ryan failed to comply with Rule 24(c). Ryan filed his proposed Answer with his replies to this Motion's oppositions. Proposed Answer Terr. Guam ex rel John Ryan (June 22, 2026). The proposed Answer identifies his defenses and gives Permarch notice of the position he will take. Any initial omission was technical, has been cured, and caused no substantial prejudice.

The parties also dispute whether Ryan's participation would inject collateral whistleblower issues into this tax appeal and unfairly prejudice DRT or Permarch. The Court is not persuaded that intervention will unfairly prejudice DRT or Permarch. Ryan's participation is tied to the same alleged tax nonpayment underlying the assessment and is relevant to whether this proceeding constitutes an alternate remedy under 5 GCA § 37203(e), whether the assessment concerns proceeds recovered because of Ryan's information, and whether findings in this proceeding may affect the related Whistleblower Case. Intervention therefore does not introduce an unrelated dispute. Additionally, the Court's ruling does not authorize Ryan to expand this proceeding into a trial of every issue in the Whistleblower Case. The Court may limit discovery, exclude irrelevant evidence, protect confidential or privileged information, and address any disputes through appropriate orders. Any potential burden or prejudice can therefore be addressed through the ordinary tools of civil procedure and does not warrant denying intervention.

Finally, Permarch and DRT raise confidentiality concerns. Those concerns do not defeat intervention. The parties may seek protective orders, redactions, in camera review, discovery limitations, or other relief under the discovery rules. Ryan remains subject to those protections and to all applicable confidentiality requirements. The Court can address particular disclosures without denying intervention.

III. CONCLUSION AND ORDER

Ryan satisfies each requirement for intervention as of right. His motion was timely, he has a significantly protectable interest related to the assessment, disposition of this proceeding may impair his ability to protect that interest, and the existing parties do not adequately represent him. The Court therefore GRANTS intervention under GRCP 24(a) and hereby ORDERS:

1. The Territory of Guam ex rel. John Ryan is added as an Intervenor-Defendant, and all deadlines under the July 9, 2026 Scheduling Order and Discovery Plan apply to him.

2. John Ryan's Proposed Answer to Petitioner's First Amended Complaint may be filed within five days of this Decision and Order.
3. The Clerk shall amend the caption accordingly.
4. All parties shall serve Ryan, through counsel, with all filings and notices in this proceeding.
5. This Order does not decide the merits of Permarch's challenge to DRT's assessment or the amount of any recovery, award, fees, costs, or expenses.

SO ORDERED this 25 August 2026.

HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

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